THE HON'BLE SRI JUSTICE RAMESH RANGANATHAN

W.P. NO. 34354 of 1997

DATED: 20.06.2007

Between:-

K. Pattabhi Ramaiah s/o Sri Kotaiah, aged about 67 years, occ: Retired Lecturer in Hindi, R/o Vijayawada, Krishna District.

…PETITIONER

And

The Government of Andhra Pradesh, represented by its Principal Secretary to Government, Education Department, Secretariat Buildings, Hyderabad and two others.

…RESPONDENTS

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O R D E R

Questioning the action of the 3rd respondent, in proceedings dated 30.04.1997, in reducing the petitioner's pension from Rs. 1733/- per month to Rs. 1424/- per month, the present writ petition is filed.

Petitioner would contend that while the normal age of the retirement is 58 years, teachers working in Private Colleges were entitled to be continued upto 60 years. The petitioner had earlier filed W.P. No. 16640 of 1990 claiming such a benefit. Petitioner would submit that in view of the orders of this Court in W.P. No. 16640 of 1990 dated 25.07.1991 he was entitled to continue in service till he reached the age of 60 years on payment of revised U.G.C. scales of pay of 1986, and accordingly, his pension was appropriately fixed at Rs. 1733/- per month taking into account his pay scales on the date of his superannuation of 60 years.

Sri P.V.S.S.S. Rama Rao, learned counsel for the petitioner, would submit that the judgment of this Court having attained finality it was not open to the respondents to deny the benefits which would enure to the petitioner's benefit, as a consequence of the judgment of this Court on the specious plea that increments drawn beyond 58 years was not eligible for payment of pension. Learned counsel would contend that, in any event, since the petitioner has a vested right to be

continued to be paid the pension which he was receiving, any reduction in pension could only have been made after putting the petitioner on notice and after giving him an opportunity of being heard and as such opportunity was given to the petitioner the impugned order was liable to be quashed for violation of principles of natural justice.

In the counter affidavit, filed on behalf of the respondents, it is stated that the petitioner was continued in service beyond 58 years of age on Court orders and was paid salary for the extended period at the same rates which was paid on the date of superannuation of 58 years. It is also stated that, since the petitioner continued in service beyond 58 years of age on court orders, he was paid salary for the extended period at the same rates which was paid on the date of superannuation and that sanction of increments beyond the age of superannuation of 58 years may not arise. According to the respondents, retired Lecturers were eligible for career advancement scales of Rs. 3700/- to Rs. 5700/- with effect from 01-01-1986 and accordingly the petitioner's increments had been allowed with effect from 01-07-1986 and that the normal date of increments and his pay came to Rs. 4075/- as on 01-07-1988 and, as such, his ten months average pay had been taken from March, 1988 to June, 1988 at Rs. 3,950/- and from July, 1988 to December, 1988 at Rs. 4075/- and thus his pension came to Rs. 4025/- which multiplied into 33/80 came to Rs. 1661/- According to the respondents, while the petitioner's pension had been revised downwards by the Accountant General at Rs. 1424/-, his service beyond the age of 58 years has to be treated as 'just service' and his pension has to be revised to Rs.1661/- instead of Rs. 1424/- with effect from 01-11-1992 as per orders contained in G.O.Ms.No. 2, Education Department, dated 05-01-1994.

On the respondents own showing, as is clear from the aforesaid

averments in the counter affidavit, their action in reducing his pension to Rs. 1424/- per month is not in accordance with law. While the petitioner would contend that he was entitled to be paid monthly pension of Rs. 1733/- per month, the respondents would now state that he was entitled only to Rs. 1661/- per month. Reduction of pension from Rs. 1733/- per month to Rs. 1661/- per month would also amount to reduction in the monthly pension now being paid to the petitioner, which can only be done after putting him on notice and after giving him an opportunity of being heard.

Sri P.V.S.S.S. Rama Rao, learned counsel for the petitioner, would contend that pursuant to the interim orders of this Court, the petitioner is continued to be paid monthly pension at Rs. 1733/- per month. The impugned order of the 3rd respondent is liable to be quashed for violation of principles of natural justice. Leaving it open to the respondents, if they so choose, to take action in accordance with law, after putting the petitioner on notice and after giving him an opportunity of being heard, the writ petition is allowed. However, in the circumstances, without costs.

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RAMESH RANGANATHAN, J

Dated: 20.06.2007
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